

TITLE 327 WATER POLLUTION CONTROL BOARD

NOTICE OF READOPTION IC 13-14-9.5-1.1 NOTICE OF RULE REVIEW LSA Document #12-262

This is a notice of rule review as described in IC 13-14-9.5-1.1, which describes types of rules that do not expire after seven years. These types of rules are: (1) rules required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; and (2) rules required to begin or continue receiving federal funding for implementation or operation of a program.

The Indiana Department of Environmental Management (IDEM) is required to publish a list of these rules that have been effective for seven years and request comment, in a 30 day comment period, on any specific rule that should be reviewed through the regular rulemaking process under IC 13-14-9. IDEM must also provide notice of a public hearing before the Water Pollution Control Board (board) concerning this IC 13-14-9.5-1.1 rule review. IDEM will respond to all comments received during the comment period and provide the comments and responses to the board during the public hearing. The board, after considering the comments, responses, and testimony at the hearing, will direct IDEM on whether additional rulemaking actions must be started to address concerns raised to the board.

IC 13-14-9-4(a)(5) THROUGH IC 13-14-9-4(a)(7) IDENTIFICATION OF RESTRICTIONS AND REQUIREMENTS NOT IMPOSED UNDER FEDERAL LAW

IC 13-14-9.5-1.1 requires this notice to contain the information described under IC 13-14-9-4(a)(5) through IC 13-14-9-4(a)(7) regarding restrictions and requirements of the listed rules that are not imposed under federal law. The listed rules at:

- (1) 327 IAC 2-1 and 327 IAC 2-1.5 concern water quality standards rules required under the Clean Water Act (CWA) in order for the state to have delegation for the National Pollutant Discharge Elimination System (NPDES) program;
- (2) 327 IAC 5-2 establish the basic NPDES rules required under the CWA; and
- (3) 327 IAC 8-2.6 establish drinking water standards and enhanced filtration and disinfection rules for public water supply required under the Safe Drinking Water Act in order for the state to have delegation for conducting public water supply programs.

No element of the listed rules imposes either a restriction or requirement on persons to whom the draft rule applies that is not imposed under federal law. These rules are authorized under IC 13-18-3-2(a) and IC 13-18-3-11.

The CWA is the authority for water quality standards and NPDES rules. Because of the variability of waters across the nation, the federal regulations under the CWA do not specify exact standards for the states but do require the states to establish standards that are federally reviewed and approved in order for a state to have delegation to conduct the NPDES program for the state. Indiana is a delegated state and, as such, the water quality standards and NPDES rules have been federally approved. Similarly, the SDWA is the authority for drinking water standards. Indiana is a delegated state under the SDWA for programs related to public drinking water and must have rules approved by the federal government.

LIST OF RULES

The following is a list of rules in 327 IAC that have been effective for seven years and are: (1) required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; or (2) required to begin or continue receiving federal funding for implementation or operation of a program:

ARTICLE 2. WATER QUALITY STANDARDS

Rule 1. Water Quality Standards Applicable to All State Waters
Except Waters of the State Within the Great Lakes System

327 IAC 2-1-12 Incorporation by reference

Rule 1.5. Water Quality Standards Applicable to All State Waters Within the Great Lakes System

327 IAC 2-1.5-16 Site-specific modifications to Tier I criteria and Tier II values

327 IAC 2-1.5-20 Incorporation by reference

ARTICLE 8. PUBLIC WATER SUPPLY

Rule 2.6. Enhanced Filtration and Disinfection

327 IAC 8-2.6-6 Filter backwash

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits comments on specific rules listed above that should be reviewed through the regular rulemaking process under IC 13-14-9. IDEM requests that specific changes and language suggestions accompany such comments. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #12-262 (2012 WPCB Nonsunset rule review)
MaryAnn Stevens
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
MC 65-41
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with a copy of the letter submitted through the postal system.

(3) By electronic mail to mstevens@idem.in.gov. To confirm timely delivery of your comments, please request a document receipt when you send the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking you are commenting on.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than June 22, 2012. Hand delivered comments must be delivered to the appropriate office by 4:45 p.m. EDT on the above-listed deadline date.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rules Development Branch
Office of Legal Counsel

